



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2021-0212, FRL-10018-33-Region 10]

Air Plan Approval; OR; Updates to Adoption by Reference of Federal Provisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Oregon State Implementation Plan (SIP) submitted on January 29, 2021. The revision updates the date by which Federal provisions are adopted by reference into the Oregon SIP, making air quality requirements more current.

DATES: Comments must be received on or before **[Insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R10-OAR-2021-0212, at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from <https://www.regulations.gov>. The EPA may publish any comment received to its public docket. Do not electronically submit any information you consider to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Kristin Hall, EPA Region 10, 1200 Sixth

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SUPPLEMENTARY INFORMATION: Throughout this document, wherever “we,” “us,” or “our” is used, it means the EPA.

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I. Background

A. State Implementation Plan

Each state has a State Implementation Plan (SIP) containing the control measures and strategies used to attain and maintain the national ambient air quality standards (NAAQS) established by the EPA for the criteria pollutants (carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter, sulfur dioxide). The SIP must meet the requirements of CAA section 110 and revisions to the SIP must be submitted to and approved by the EPA.

The SIP is extensive, containing such elements as air pollution control regulations, emission inventories, attainment demonstrations, and enforcement mechanisms. The SIP is a living compilation of these elements and is revised and updated by the State over time – to keep pace with Federal requirements and to address changing air quality issues in the State. The Oregon SIP is codified in the Code of Federal Regulations (CFR) at 40 CFR part 52, subpart MM. Oregon routinely revises the SIP and submits the changes to the EPA for approval.

II. Evaluation of Submission

On January 29, 2021, the Oregon Department of Environmental Quality submitted a SIP revision to the EPA for approval. The revision, State effective January 21, 2021, updates the adoption by reference of Federal requirements used throughout the Oregon air quality rules. Oregon’s air quality rules are codified in Divisions 200 through 268 of Chapter 340 of the Oregon Administrative Rules (OAR).

Specifically, Oregon revised OAR 340-200-0035 and OAR 340-244-0030 to state that all references to the CFR are updated from July 1, 2018 to July 1, 2020. We propose to approve the submitted change to OAR 340-200-0035 because it serves to bring the Oregon SIP up-to-date and is consistent with CAA section 110 requirements. For the same reasons, we propose to approve the change to OAR 340-244-0030, except that, consistent with our prior action on October 27, 2015, we propose to approve it only to the extent needed to implement the requirements for gasoline dispensing facilities in Division 244 that are approved into the SIP for the purposes of regulating VOC emissions (80 FR 65655). Similarly, we propose to clarify our approval of Division 244 into the Oregon SIP, codified at 40 CFR 52.1970(c), by revising footnote 3 in Table 2 to read, “The EPA approves Division 244 only to the extent needed to implement the requirements for gasoline dispensing facilities that are approved into the SIP for the purpose of regulating VOC emissions.” This language is consistent with our October 27, 2015 action (80 FR 65655).

III. Proposed Action

The EPA is proposing to approve, and incorporate by reference, revisions to the Oregon SIP submitted on January 29, 2021. Upon final approval, the Oregon SIP will include the following regulations, State effective January 21, 2021:

- OAR 340-200-0035, Reference Materials; and
- OAR 340-244-0030, General Provisions for Stationary Sources: Definitions, only to the extent needed to implement the requirements for gasoline dispensing facilities in Division 244 that are approved into the SIP for the purposes of regulating VOC emissions.

IV. Incorporation by Reference

In this document, the EPA is proposing to include in a final rule, regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the provisions described in Section III of this document.

The EPA has made, and will continue to make, these documents generally available through <https://www.regulations.gov> and at the EPA Region 10 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of the requirements would be inconsistent with the CAA; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed action does not apply on any Indian reservation land or in any other area in Oregon where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: March 30, 2021.

Michelle L. Pirzadeh,
Acting Regional Administrator,
Region 10.

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